

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

RAFAEL BERNARDO ALVAREZ,

Plaintiff,

v.

CLARK COUNTY, *et al.*,

Defendant.

Case No. 2:22-cv-00261-RFB-EJY

ORDER

Before the Court for consideration is the Report and Recommendation [ECF No. 4] of the Honorable Elayna J. Youchah, United States Magistrate Judge, entered February 17, 2022.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). A party may file specific written objections to the findings and recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Local Rule IB 3-2(a). When written objections have been filed, the district court is required to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); see also Local Rule IB 3-2(b). Where a party fails to object, however, a district court is not required to conduct “any review,” de novo or otherwise, of the report and recommendations of a magistrate judge. Thomas v. Arn, 474 U.S. 140, 149 (1985). Pursuant to Local Rule IB 3-2(a), objections were due by March 3, 2022. No objections have been filed. The Court has reviewed the record in this case and concurs with the Magistrate Judge’s recommendations.

...

1 **IT IS THEREFORE ORDERED** that the Report and Recommendation [ECF No. 4] is
2 ACCEPTED and ADOPTED in full.

3 **IT IS FURTHER ORDERED** that Plaintiff's Claims 2 through 4, attacking the validity
4 of his conviction, **is dismissed without prejudice**. Plaintiff may refile for relief through a habeas
5 petition.

6 **IT IS FURTHER ORDERED** that Plaintiff's Fourth Amendment claim (Claim 1) **is**
7 **dismissed without prejudice with leave to amend**.

8 **IT IS FURTHER ORDERED** that if Plaintiff so chooses, he is allowed to file an amended
9 complaint correcting the deficiencies in his Fourth Amendment claim within thirty **(30) court days**
10 from the date of this Order. The amended complaint must contain a short and plain statement
11 describing all facts underlying the conduct that constitutes the violations of law Plaintiff alleges.
12 Fed. R. Civ. P. 8(a)(2). Although the Federal Rules of Civil Procedure adopt a flexible pleading
13 standard, Plaintiff still must give each Defendant fair notice of Plaintiff's claims against him/her
14 and Plaintiff's entitlement to relief.

15 **IT IS FURTHER ORDERED** that any complaint filed by Plaintiff **must not exceed a**
16 **total of thirty pages in length including exhibits**.

17 **IT IS FURTHER ORDERED** that the Clerk of Court shall send Plaintiff the appropriate
18 instructions and forms for filing a Habeas Corpus petition under 28 U.S.C. § 2254.

19
20 DATED: May 10, 2022.



21
22 _____
23 **RICHARD F. BOULWARE, II**
24 **United States District Judge**